

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA §
§
VS. § CRIMINAL ACTION NO. 2:06-CR-380-2
§
LEONEL MARTIN GUTIERREZ §

ORDER DENYING MOTION TO REDUCE SENTENCE

Pending before the Court is Leonel Martin Gutierrez' motion to reduce his sentence. D.E. 438. Because this Court has no authority to reduce his sentence, the motion is DENIED.

Gutierrez was sentenced on June 19, 2008, to 292 months in the Bureau of Prisons, 5 years supervised release, a \$3000 fine, and a special assessment of \$100. D.E. 288, 293. He appealed, but the Fifth Circuit granted the government's motion to dismiss the appeal. D.E. 343.

Gutierrez' letter motion requests the Court reinstate credit for acceptance of responsibility that the Court denied at sentencing. It is black-letter law that a federal court generally "may not modify a term of imprisonment once it has been imposed." Dillon v. United States, 560 U.S. 817, 824 (2010). This Court has authority to modify or correct a previously imposed sentence only in the "limited number of circumstances" set out in 18 U.S.C. § 3582(c). United States v. Ross, 557 F.3d 237, 238 (5th Cir. 2009); United States v. Bridges, 116 F.3d 1110, 1112 (5th Cir. 1997). These circumstances are: (1) upon a motion for reduction by the Director of the Bureau of Prisons under certain circumstances; (2) to the extent otherwise expressly permitted by statute or Rule 35 of the Federal Rules of Criminal Procedure; and (3) if the defendant was sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission and such a reduction would be consistent with the Commission's

policy statements. Ross, 557 F.3d at 238; 18 U.S.C. § 3582(c). None of these provisions are implicated by Gutierrez' motion.

The Court DENIES Gutierrez' motion (D.E. 438) to reduce his sentence.

SIGNED and ORDERED this 25th day of February, 2014.



Janis Graham Jack
Senior United States District Judge